



CRM-M-37096-2024

[1]

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

[233]

CRM-M-37096-2024

Date of decision: 07.08.2024

Surender Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ajay Vijarania, Advocate for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.229 dated 26.10.2023 for offences punishable under Sections 323, 307 and 506 of Indian Penal Code, registered at Police Station Jhojhu Kalan, Charkhi Dadri.

2. Learned counsel for the petitioner submits that the petitioner's false implication in the present case is evident from the fact that while stepping into the witness box, both the material witnesses i.e. the complainant as well as injured-Shiv Kumar failed to support the case of the prosecution. As a result of which, they both were declared hostile. In support of his contentions, learned counsel has drawn attention of this Court to the respective testimonies of both the material witnesses i.e. PW-1 injured-Shiv Kumar as well as PW-2 complainant Maneet.

3. Learned counsel has further submitted that since both the material witnesses including the injured qua whom the petitioner had



been attributed injuries with an Axe, had been examined and had not supported the case of the prosecution, further incarceration of the petitioner, who has been in custody since 30.10.2023, would serve no useful purpose as 14 prosecution witnesses still remain to be examined.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has also drawn the attention of this Court to the following allegations levelled in the FIR:-

“ To SHO P.S., Jhojhu Kalan, Sir I maneet S/o Shiv Charan S/o Rohtash and resident of Village Dagroli and aged about 23 years and 12th pass. On 25.10.2023, I was present at my home, at the same time Sombir S/o Ramphal resident of Dagroli has informed me at about 06:30 P.M. that my uncle Shiv Kumar S/o Rohtash aged 42 years is injured and lying near Rajbir Jangra Grocery Shop (Kiryan Store). On the information I alongwith Manjeet S/o Mahender resident of Dagroli went to the spot where my uncle Shiv Kumar was lying injured and took my uncle to Civil Hospital Dadri by arranging a private vehicle, where doctor has given first aid and refer my uncle to medical Rohtak. Then I and Manjit took my uncle to Rohtak and my father went back to village. When I inquired my uncle about the injuries then my uncle explained that Surender S/o Narayan R/o Dagroli had given injuries on my head., hand and on legs my axe and also threatened if you meet me again I will kill you. Kindly legal action be taken against Surender.

5. Learned State counsel however, on instructions, has not disputed that all the material witnesses stand examined and had been declared hostile during trial.

6. I have heard learned counsel for the parties and perused the



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relevant material placed on record.

7. The trial would take considerable time to conclude as 14 prosecution witnesses still remain to be examined. Hence, further incarceration of the petitioner would serve no useful purpose.

8. In the facts and circumstances as enumerated hereinabove, this Court, thus, deems it fit to extend the concession of bail to the petitioner.

9. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

10. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

AUGUST 07, 2024*Anjal****(MANJARI NEHRU KAUL)****JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No